

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF ATMOS ENERGY)
CORPORATION FOR APPROVAL OF THIRD)
PARTY GAS SUPPLY AGREEMENTS AND)
FOR DEVIATION FROM THE PRICING) CASE NO. 2011-00201
REQUIREMENTS OF KRS 278:2207)

O R D E R

On June 9, 2011, Atmos Energy Corporation Kentucky/Mid-States Division ("Atmos") applied for approval of its proposed gas supply agreements with Atmos Energy Marketing, LLC ("AEM") and for a deviation from the affiliate pricing requirements set forth in KRS 278.2207(1)(b). By this order, we approve the proposed gas supply agreements and grant the requested deviation.¹

In Case No. 2006-00194,² the Commission approved Atmos's current gas supply agreement with AEM and granted a deviation from the requirements of KRS 278.2207(1)(b). This agreement was to expire on May 31, 2011, but AEM has agreed to extend the contract on a month-to-month basis pending a replacement agreement approved by this Commission.

¹ No person has sought intervention in this proceeding. In addition to the application, the record contains Atmos's response to Commission Staff's requests for information. No hearing was requested in this matter.

² Case No. 2006-00194, Application of Atmos Energy Corporation For Approval of Third Party Gas Supply Agreement and for a Deviation from the Pricing Requirements of KRS 278.2207 (Ky. PSC Aug. 18, 2006).

While the current supply agreement with AEM covers Atmos's entire system's firm supply of natural gas as well as asset management of its transportation and storage contracts, Atmos now requests approval of separate supply contracts with AEM for the individual portions of the Atmos system served by Texas Gas/Trunkline ("TXG") and Tennessee Gas Pipeline ("TGP"). Atmos chose to issue two separate Requests for Proposal ("RFPs") for TXG and TGP due to potential changes to TGP transportation which Atmos anticipates occurring within the next 12 months. Atmos proposes to award a 10-month contract to AEM for TGP asset management, and to issue a subsequent RFP once TGP rate case issues at the Federal Energy Regulatory Commission have been resolved. The term of the proposed contract with AEM for its management of TXG volumes is four years and ten months.

In February 2011, Atmos issued RFPs through e-mail notifications which were viewed by 41 potential suppliers interested in the TXG volumes and 48 potential suppliers interested in the TGP volumes. Based upon its analyses of the bids contained in the responses to its RFPs, Atmos determined that AEM's proposals for both TXG and TGP were in the best interest of Atmos and its ratepayers and will produce greater savings compared to the competing bids.

AEM is a wholly owned subsidiary of Atmos Energy Holdings, LLC, which is wholly owned by Atmos Energy Corporation. As a result of this relationship, any transaction between Atmos and AEM must comply with the pricing requirements of KRS 278.2207, unless the Commission grants a deviation. KRS 278.2207, in pertinent part, provides:

- (1) The terms for transactions between a utility and its affiliates shall be in accordance with the following:

.....

(b) Services and products provided to the utility by an affiliate shall be priced at the affiliate's fully distributed cost but in no event greater than market or in compliance with the utility's existing USDA, SEC, or FERC approved cost allocation methodology.

(2) A utility may file an application with the commission requesting a deviation from the requirements of this section for a particular transaction or class of transactions. The utility shall have the burden of demonstrating that the requested pricing is reasonable. The commission may grant the deviation if it determines the deviation is in the public interest.

Atmos has requested a deviation from these requirements. In support of its request, Atmos states that the contract is the result of a competitive bidding process; therefore, the price cannot be at AEM's fully distributed cost. Atmos also asserts that the competitive bidding process establishes that the cost of the services is not greater than the market cost.

In its Order in Case No. 2002-00245³ approving Atmos's gas supply agreement with AEM, the Commission noted the recommendations of Liberty Consulting Group ("Liberty") regarding Atmos's RFP process in a management audit that Liberty conducted in 2002. Liberty recommended several modifications to Atmos's RFP process to ensure that all bidders receive the same information. Specifically, information supplied in response to a bidder's question regarding an RFP should be submitted to all

³ Case No. 2002-00245, Application of Western Kentucky Gas Company, a Division of Atmos Energy Corporation, for Approval of Third Party Gas Supply Agreement and for a Deviation from the Pricing Requirements of KRS 278.2207 (Ky. PSC Dec. 3, 2002).

bidders. In response to a Staff request, Atmos provided the steps it takes to ensure that its affiliate receives no preferential treatment in its RFP processes.⁴

The Commission has afforded confidential treatment to Atmos's proposed gas supply agreements, the specific information contained in the bids submitted in response to its RFPs, and Atmos's analysis of those bids. Accordingly, the Commission is unable to elaborate in this Order upon the specifics of the bids and the proposed agreement.

The Commission, having reviewed the information and analysis provided and being otherwise sufficiently advised, finds that:

1. The proposed transactions with AEM, as compared to the other bids, will provide the greatest savings, are reasonable, and are in the public interest.
2. The requested price is reasonable.
3. Atmos's request for deviation from the requirements of KRS 278.2207 is in the public interest.
4. Atmos's deviation request should be granted.

IT IS THEREFORE ORDERED that:

1. Atmos's proposed gas supply agreements with AEM are approved.
2. Atmos's request for a deviation from the pricing requirements of KRS 278.2207 is granted.

⁴ Item 5 of Atmos's Response to Commission Staff's August 17, 2011 Request for Information.

By the Commission

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KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Honorable Mark R Hutchinson
Attorney at Law
611 Frederica Street
Owensboro, KENTUCKY 42301

Mark Martin
VP Rates & Regulatory Affairs
Atmos Energy Corporation
3275 Highland Pointe Drive
Owensboro, KY 42303